

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 39

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING COVERAGE FOR DIAGNOSIS  
AND TREATMENT OF AUTISM SPECTRUM DISORDER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 59A, Article 22 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
DIAGNOSIS AND TREATMENT.--

A. An individual or group health insurance policy,  
health care plan or certificate of health insurance that is  
delivered, issued for delivery or renewed in this state shall  
provide coverage to an eligible individual who is nineteen  
years of age or younger, or an eligible individual who is  
twenty-two years of age or younger and is enrolled in high  
school, for:

.175765.1

underscored material = new  
[bracketed material] = delete

1 (1) well-baby and well-child screening for  
2 diagnosing the presence of autism spectrum disorder; and

3 (2) treatment of autism spectrum disorder  
4 through speech therapy, occupational therapy, physical therapy  
5 and applied behavioral analysis.

6 B. Coverage required pursuant to Subsection A of  
7 this section:

8 (1) shall be limited to treatment that is  
9 prescribed by the insured's treating physician in accordance  
10 with a treatment plan;

11 (2) shall be limited to thirty-six thousand  
12 dollars (\$36,000) annually and shall not exceed two hundred  
13 thousand dollars (\$200,000) in total lifetime benefits.

14 Beginning January 1, 2011, the maximum benefit shall be  
15 adjusted annually on January 1 to reflect any change from the  
16 previous year in the medical component of the then-current  
17 consumer price index for all urban consumers published by the  
18 bureau of labor statistics of the United States department of  
19 labor;

20 (3) shall not be denied on the basis that the  
21 services are habilitative or rehabilitative in nature; and

22 (4) may be subject to other general exclusions  
23 and limitations of the insurer's policy or plan, including, but  
24 not limited to, coordination of benefits, participating  
25 provider requirements, restrictions on services provided by

.175765.1

1 family or household members and utilization review of health  
2 care services, including the review of medical necessity, case  
3 management and other managed care provisions.

4 C. The coverage required pursuant to Subsection A  
5 of this section shall not be subject to dollar limits,  
6 deductibles or coinsurance provisions that are less favorable  
7 to an insured than the dollar limits, deductibles or  
8 coinsurance provisions that apply to physical illnesses that  
9 are generally covered under the individual or group health  
10 insurance policy, health care plan or certificate of health  
11 insurance, except as otherwise provided in Subsection B of this  
12 section.

13 D. An insurer shall not deny or refuse to issue  
14 coverage for medically necessary services or refuse to contract  
15 with, renew, reissue or otherwise terminate or restrict  
16 coverage for an individual because the individual is diagnosed  
17 as having a developmental disability.

18 E. The treatment plan required pursuant to  
19 Subsection B of this section shall include all elements  
20 necessary for the health insurance plan to pay claims  
21 appropriately. These elements include, but are not limited to:

- 22 (1) the diagnosis;
- 23 (2) the proposed treatment by types;
- 24 (3) the frequency and duration of treatment;
- 25 (4) the anticipated outcomes stated as goals;

.175765.1

1 (5) the frequency with which the treatment  
2 plan will be updated; and

3 (6) the signature of the treating physician.

4 F. This section shall not be construed as limiting  
5 benefits and coverage otherwise available to an insured under a  
6 health insurance plan.

7 G. As used in this section:

8 (1) "habilitative or rehabilitative services"  
9 means treatment programs that are necessary to develop,  
10 maintain and restore to the maximum extent practicable the  
11 functioning of an individual; and

12 (2) "high school" means a school providing  
13 instruction for any of the grades nine through twelve."

14 Section 2. A new section of Chapter 59A, Article 23 NMSA  
15 1978 is enacted to read:

16 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
17 DIAGNOSIS AND TREATMENT.--

18 A. A blanket or group health insurance policy or  
19 contract that is delivered, issued for delivery or renewed in  
20 this state shall provide coverage to an eligible individual who  
21 is nineteen years of age or younger, or an eligible individual  
22 who is twenty-two years of age or younger and is enrolled in  
23 high school, for:

24 (1) well-baby and well-child screening for  
25 diagnosing the presence of autism spectrum disorder; and

.175765.1

1 (2) treatment of autism spectrum disorder  
2 through speech therapy, occupational therapy, physical therapy  
3 and applied behavioral analysis.

4 B. Coverage required pursuant to Subsection A of  
5 this section:

6 (1) shall be limited to treatment that is  
7 prescribed by the insured's treating physician in accordance  
8 with a treatment plan;

9 (2) shall be limited to thirty-six thousand  
10 dollars (\$36,000) annually and shall not exceed two hundred  
11 thousand dollars (\$200,000) in total lifetime benefits.

12 Beginning January 1, 2011, the maximum benefit shall be  
13 adjusted annually on January 1 to reflect any change from the  
14 previous year in the medical component of the then-current  
15 consumer price index for all urban consumers published by the  
16 bureau of labor statistics of the United States department of  
17 labor;

18 (3) shall not be denied on the basis that the  
19 services are habilitative or rehabilitative in nature; and

20 (4) may be subject to other general exclusions  
21 and limitations of the insurer's policy or plan, including, but  
22 not limited to, coordination of benefits, participating  
23 provider requirements, restrictions on services provided by  
24 family or household members and utilization review of health  
25 care services, including the review of medical necessity, case

.175765.1

1 management and other managed care provisions.

2 C. The coverage required pursuant to Subsection A  
3 of this section shall not be subject to dollar limits,  
4 deductibles or coinsurance provisions that are less favorable  
5 to an insured than the dollar limits, deductibles or  
6 coinsurance provisions that apply to physical illnesses that  
7 are generally covered under the blanket or group health  
8 insurance policy or contract, except as otherwise provided in  
9 Subsection B of this section.

10 D. An insurer shall not deny or refuse to issue  
11 coverage for medically necessary services or refuse to contract  
12 with, renew, reissue or otherwise terminate or restrict  
13 coverage for an individual because the individual is diagnosed  
14 as having a developmental disability.

15 E. The treatment plan required pursuant to  
16 Subsection B of this section shall include all elements  
17 necessary for the health insurance plan to pay claims  
18 appropriately. These elements include, but are not limited to:

- 19 (1) the diagnosis;  
20 (2) the proposed treatment by types;  
21 (3) the frequency and duration of treatment;  
22 (4) the anticipated outcomes stated as goals;  
23 (5) the frequency with which the treatment  
24 plan will be updated; and  
25 (6) the signature of the treating physician.

.175765.1

1 F. This section shall not be construed as limiting  
2 benefits and coverage otherwise available to an insured under a  
3 health insurance plan.

4 G. As used in this section:

5 (1) "habilitative or rehabilitative services"  
6 means treatment programs that are necessary to develop,  
7 maintain and restore to the maximum extent practicable the  
8 functioning of an individual; and

9 (2) "high school" means a school providing  
10 instruction for any of the grades nine through twelve."

11 Section 3. A new section of Chapter 59A, Article 46 NMSA  
12 1978 is enacted to read:

13 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
14 DIAGNOSIS AND TREATMENT.--

15 A. An individual or group health maintenance  
16 contract that is delivered, issued for delivery or renewed in  
17 this state shall provide coverage to an eligible individual who  
18 is nineteen years of age or younger, or an eligible individual  
19 who is twenty-two years of age or younger and is enrolled in  
20 high school, for:

21 (1) well-baby and well-child screening for  
22 diagnosing the presence of autism spectrum disorder; and

23 (2) treatment of autism spectrum disorder  
24 through speech therapy, occupational therapy, physical therapy  
25 and applied behavioral analysis.

.175765.1

1           B. Coverage required pursuant to Subsection A of  
2 this section:

3                   (1) shall be limited to treatment that is  
4 prescribed by the insured's treating physician in accordance  
5 with a treatment plan;

6                   (2) shall be limited to thirty-six thousand  
7 dollars (\$36,000) annually and shall not exceed two hundred  
8 thousand dollars (\$200,000) in total lifetime benefits.

9 Beginning January 1, 2011, the maximum benefit shall be  
10 adjusted annually on January 1 to reflect any change from the  
11 previous year in the medical component of the then-current  
12 consumer price index for all urban consumers published by the  
13 bureau of labor statistics of the United States department of  
14 labor;

15                   (3) shall not be denied on the basis that the  
16 services are habilitative or rehabilitative in nature; and

17                   (4) may be subject to other general exclusions  
18 and limitations of the insurer's policy or plan, including, but  
19 not limited to, coordination of benefits, participating  
20 provider requirements, restrictions on services provided by  
21 family or household members and utilization review of health  
22 care services, including the review of medical necessity, case  
23 management and other managed care provisions.

24           C. The coverage required pursuant to Subsection A  
25 of this section shall not be subject to dollar limits,

.175765.1

1 deductibles or coinsurance provisions that are less favorable  
2 to an insured than the dollar limits, deductibles or  
3 coinsurance provisions that apply to physical illnesses that  
4 are generally covered under the individual or group health  
5 maintenance contract, except as otherwise provided in  
6 Subsection B of this section.

7 D. An insurer shall not deny or refuse to issue  
8 coverage for medically necessary services or refuse to contract  
9 with, renew, reissue or otherwise terminate or restrict  
10 coverage for an individual because the individual is diagnosed  
11 as having a developmental disability.

12 E. The treatment plan required pursuant to  
13 Subsection B of this section shall include all elements  
14 necessary for the health insurance plan to pay claims  
15 appropriately. These elements include, but are not limited to:

- 16 (1) the diagnosis;  
17 (2) the proposed treatment by types;  
18 (3) the frequency and duration of treatment;  
19 (4) the anticipated outcomes stated as goals;  
20 (5) the frequency with which the treatment  
21 plan will be updated; and  
22 (6) the signature of the treating physician.

23 F. This section shall not be construed as limiting  
24 benefits and coverage otherwise available to an insured under a  
25 health insurance plan.

.175765.1

1 G. As used in this section:

2 (1) "habilitative or rehabilitative services"  
3 means treatment programs that are necessary to develop,  
4 maintain and restore to the maximum extent practicable the  
5 functioning of an individual; and

6 (2) "high school" means a school providing  
7 instruction for any of the grades nine through twelve."

8 Section 4. A new section of Chapter 59A, Article 47 NMSA  
9 1978 is enacted to read:

10 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
11 DIAGNOSIS AND TREATMENT.--

12 A. An individual or group health insurance policy,  
13 health care plan or certificate of health insurance delivered  
14 or issued for delivery in this state shall provide coverage to  
15 an eligible individual who is twenty-two years of age or  
16 younger and is enrolled in high school, for:

17 (1) well-baby and well-child screening for  
18 diagnosing the presence of autism spectrum disorder; and

19 (2) treatment of autism spectrum disorder  
20 through speech therapy, occupational therapy, physical therapy  
21 and applied behavioral analysis.

22 B. Coverage required pursuant to Subsection A of  
23 this section:

24 (1) shall be limited to treatment that is  
25 prescribed by the insured's treating physician in accordance

.175765.1

1 with a treatment plan;

2 (2) shall be limited to thirty-six thousand  
3 dollars (\$36,000) annually and shall not exceed two hundred  
4 thousand dollars (\$200,000) in total lifetime benefits.

5 Beginning January 1, 2011, the maximum benefit shall be  
6 adjusted annually on January 1 to reflect any change from the  
7 previous year in the medical component of the then-current  
8 consumer price index for all urban consumers published by the  
9 bureau of labor statistics of the United States department of  
10 labor;

11 (3) shall not be denied on the basis that the  
12 services are habilitative or rehabilitative in nature; and

13 (4) may be subject to other general exclusions  
14 and limitations of the insurer's policy or plan, including, but  
15 not limited to, coordination of benefits, participating  
16 provider requirements, restrictions on services provided by  
17 family or household members and utilization review of health  
18 care services, including the review of medical necessity, case  
19 management and other managed care provisions.

20 C. The coverage required pursuant to Subsection A  
21 of this section shall not be subject to dollar limits,  
22 deductibles or coinsurance provisions that are less favorable  
23 to an insured than the dollar limits, deductibles or  
24 coinsurance provisions that apply to physical illnesses that  
25 are generally covered under the individual or group health

.175765.1

1 maintenance contract, except as otherwise provided in  
2 Subsection B of this section.

3 D. An insurer shall not deny or refuse to issue  
4 coverage for medically necessary services or refuse to contract  
5 with, renew, reissue or otherwise terminate or restrict  
6 coverage for an individual because the individual is diagnosed  
7 as having a developmental disability.

8 E. The treatment plan required pursuant to  
9 Subsection B of this section shall include all elements  
10 necessary for the health insurance plan to pay claims  
11 appropriately. These elements include, but are not limited to:

- 12 (1) the diagnosis;
- 13 (2) the proposed treatment by types;
- 14 (3) the frequency and duration of treatment;
- 15 (4) the anticipated outcomes stated as goals;
- 16 (5) the frequency with which the treatment  
17 plan will be updated; and
- 18 (6) the signature of the treating physician.

19 F. This section shall not be construed as limiting  
20 benefits and coverage otherwise available to an insured under a  
21 health insurance plan.

22 G. As used in this section:

- 23 (1) "habilitative or rehabilitative services"  
24 means treatment programs that are necessary to develop,  
25 maintain and restore to the maximum extent practicable the

.175765.1

1 functioning of an individual; and

2 (2) "high school" means a school providing  
3 instruction for any of the grades nine through twelve."

4 - 13 -

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

underscoring material = new  
~~[bracketed material] = delete~~